

REMARKS AND ELECTION

Claims 1-39 are pending in the application and are subject to requirement for restriction.

Restriction Requirement

The Examiner has required restriction to one of the following inventions under 35 U.S.C. 121:

I) Claims 1-13 drawn to an organic electroluminescence element, classified in class 257, subclass 40.

II) Claims 14-39, drawn to an exposure unit having a light emitting element structure, classified in class 347, subclass 238.

Election

In order to be responsive to the requirement for restriction, Applicants elect the invention set forth in Group I, claims 1-13, with traverse.

Traverse

Notwithstanding the election of the claims of Group I in order to be responsive to the Restriction Requirement, Applicants respectfully traverse the Examiner's requirement for restriction.

Initially, Applicants point out that the requirement for restriction omits one of the two criteria of a proper requirement as now established by U.S. Patent and Trademark Office policy, as set forth in MPEP 803 that "an appropriate explanation" must be advanced by the Examiner as to the existence of a "serious burden" if a restriction were not required. Due to the aforementioned omission, it is respectfully submitted that the requirement for restriction is improper and, consequently, its withdrawal is respectfully requested.

Related to this, the requirement is traversed since there would not appear to be a serious burden to examine Applicants' application in total, and for which they have paid the appropriate claim fees. Applicants submit that it would be no serious burden on the Examiner to examine all of the pending claims, because a search for all of the claims in the above-identified application should be made in order to do a complete and thorough search in view of the recognized relationship for examination purposes between the claims in Groups I and II.

Applicants note that the restriction requirement supports restriction between the two groups of invention based upon the assertion that the two groups of invention are related as combination and subcombination. The Examiner is reminded that to support a requirement for restriction between combination and subcombination claims, both two-way distinctness and reasons for insisting on restriction are necessary.

Moreover, where a combination as claimed sets forth the details of the subcombination as separately claimed, the subject matter is not properly restrictable, even if the subcombination has separate utility. Thus, where the claims are directed to a combination AB_{sp} and the subcombination B_{sp} , restriction is not proper because two way distinctness for examination purposes cannot be established.

In the instant situation, claim 14 is dependent upon claim 1, and independent claim 15 includes similar subject matter to that recited in claim 1. Therefore, restriction is not appropriate as two way distinctness for examination purposes should not be present.

In view of the foregoing, it is respectfully requested that the Examiner seriously reconsider the requirement for restriction, and withdraw the same so as to give an examination on the merits on all of the claims pending in this application.

CONCLUSION

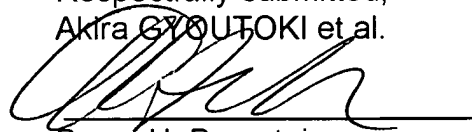
For the reasons discussed above, it is respectfully submitted that the requirement for restriction is improper and should be withdrawn.

Withdrawal of the requirement for the restriction with the examination of all claims pending in this application, claims 1-39, is respectfully requested.

Favorable consideration with early allowance of claims 1-39 is most earnestly requested.

If the Examiner has any questions, or wishes to discuss this matter, please call the undersigned at the telephone number indicated below.

Respectfully submitted,
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